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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,305	10/12/2006	Dearg Sutherland Brown	383299-336US (107322)	8437
37509	7590	08/03/2010		
DECHERT LLP P.O. BOX 390460 MOUNTAIN VIEW, CA 94039-0460			EXAMINER COVINGTON, RAYMOND K	
			ART UNIT 1625	PAPER NUMBER
			NOTIFICATION DATE 08/03/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

napatentdept@dechert.com

Office Action Summary

Application No.

10/581,305

Applicant(s)

SUTHERLAND BROWN ET AL.

Examiner

Raymond Covington

Art Unit

1625

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7, 9, 11 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 9, 11 and 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

Applicants' election of the invention of group III with traverse is acknowledged. The comments have been noted and considered however the restriction is deemed sound for reasons of record and hereby made Final. The Restriction will be reconsidered upon determination of allowable subject in accordance with current Rejoinder practice. Accordingly, claims 9, 11 and 17-22 will be searched to the extent they read on the elected invention. Claims 9 and 16 have been withdrawn from consideration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 9, 11 and 17-22 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al WO 00/07980.

Brown et al teach amide compounds of the type claimed where in formula (I) of Brown R⁴ is cycloalkyl (read cyclopropyl), Q is phenyl substituted with heteroaryl-alkoxy. See, e.g., page 23 line 30, where the heteroaryl is pyridyl, page 13 lines 14-19, page 5 lines 23-24, showing substituents corresponding to

applicants' R₁ and R₂, page 5 line 14-15 and page 30 lines 10-11. In view of the art as a whole, amides of formula (I) with pyridyl as the heteroaryl substituent of the alkoxy would have been obvious to one of ordinary skill in the art.

Applicants' comments have been noted and considered but is not deemed persuasive of patentability. It is conceded that the cited reference does not anticipate the recited claims under 35 USC 102, however compounds of formula (I) in Brown et al do correspond to those recited in the claims and are closely structurally related differing by one next adjacent homologue in a substituent. E.g., cyclopropyl vs. cyclobutyl with a teaching of cycloalkyl. In view of the art as a whole such closely structurally related compounds would have been obvious to one of ordinary skill in the art as the results would not have been unexpected absent evidence to the contrary.

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Covington whose telephone number is (571) 272-0681. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres at telephone number (571) 272-0867.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/581,305
Art Unit: 1625

Page 5

/R. C./
Examiner, Art Unit 1625

/Janet L. Andres/
Supervisory Patent Examiner,
Art Unit 1625